

2 **VIRGINIA SOIL AND WATER CONSERVATION BOARD**

3 **Amend and Reissue the General Permit for Discharges of Stormwater from Small MS4s**

5 **Part I**

6 **Definitions, Purpose, and Applicability**

7 **4VAC50-60-10. Definitions.**

8 The following words and terms used in this chapter have the following meanings unless the  
9 context clearly indicates otherwise.

10 "Act" means the Virginia Stormwater Management Act, Article 1.1 (§ 10.1-603.1 et seq.) of  
11 Chapter 6 of Title 10.1 of the Code of Virginia.

12 "Administrator" means the Administrator of the United States Environmental Protection  
13 Agency or an authorized representative.

14 "Applicable standards and limitations" means all state, interstate, and federal standards and  
15 limitations to which a discharge or a related activity is subject under the Clean Water Act (CWA)  
16 (33 USC § 1251 et seq.) and the Act, including effluent limitations, water quality standards,  
17 standards of performance, toxic effluent standards or prohibitions, best management practices,  
18 and standards for sewage sludge use or disposal under §§ 301, 302, 303, 304, 306, 307, 308,  
19 403 and 405 of CWA.

20 "Approval authority" means the Virginia Soil and Water Conservation Board or its designee.

21 "Approved program" or "approved state" means a state or interstate program that has been  
22 approved or authorized by EPA under 40 CFR Part 123 (2000).

23 "Average monthly discharge limitation" means the highest allowable average of daily  
24 discharges over a calendar month, calculated as the sum of all daily discharges measured  
25 during a calendar month divided by the number of daily discharges measured during that month.

26 "Average weekly discharge limitation" means the highest allowable average of daily  
27 discharges over a calendar week, calculated as the sum of all daily discharges measured during  
28 a calendar week divided by the number of daily discharges measured during that week.

29 "Best management practice" or "BMP" means schedules of activities, prohibitions of  
30 practices, including both structural and nonstructural practices, maintenance procedures, and  
31 other management practices to prevent or reduce the pollution of surface waters and  
32 groundwater systems from the impacts of land-disturbing activities.

33 "Board" means the Virginia Soil and Water Conservation Board.

34 "Bypass" means the intentional diversion of waste streams from any portion of a treatment  
35 facility.

36 "Channel" means a natural or manmade waterway.

37 "Chesapeake Bay Preservation Act land-disturbing activity" means a land-disturbing activity  
38 including clearing, grading, or excavation that results in a land disturbance equal to or greater  
39 than 2,500 square feet and less than one acre in all areas of jurisdictions designated as subject  
40 to the Chesapeake Bay Preservation Area Designation and Management Regulations (9VAC10-  
41 20) adopted pursuant to the Chesapeake Bay Preservation Act.

42 "Chesapeake Bay watershed" means all land areas draining to the following Virginia river  
43 basins: Potomac River Basin, James River Basin, Rappahannock River Basin, Chesapeake Bay  
44 and its small coastal basins, and York River Basin.

45 "Common plan of development or sale" means a contiguous area where separate and  
46 distinct construction activities may be taking place at different times on different schedules.

"Comprehensive stormwater management plan" means a plan, which may be integrated with other land use plans or regulations, that specifies how the water quality components, quantity components, or both of stormwater are to be managed on the basis of an entire watershed or a portion thereof. The plan may also provide for the remediation of erosion, flooding, and water quality and quantity problems caused by prior development.

"Construction activity" means any clearing, grading or excavation associated with large construction activity or associated with small construction activity.

"Contiguous zone" means the entire zone established by the United States under Article 24 of the Convention on the Territorial Sea and the Contiguous Zone (37 FR 11906 June 15, 1972).

"Continuous discharge" means a discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities.

"Control measure" means any BMP, stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

"Co-operator" means an operator of a VSMP permit that is only responsible for permit conditions relating to the discharge for which it is the operator.

"Clean Water Act" or "CWA" means the federal Clean Water Act (33 USC § 1251 et seq.), formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483, and Public Law 97-117, or any subsequent revisions thereto.

"CWA and regulations" means the Clean Water Act (CWA) and applicable regulations published in the Code of Federal Regulations promulgated thereunder. For the purposes of this chapter, it includes state program requirements.

"Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the average measurement of the pollutant over the day.

"Department" means the Department of Conservation and Recreation.

"Development" means land disturbance and the resulting landform associated with the construction of residential, commercial, industrial, institutional, recreation, transportation, or utility facilities or structures or the clearing of land for nonagricultural or nonsilvicultural purposes. The regulation of discharges from development, for purposes of these regulations, does not include the exemptions found in 4VAC50-60-300.

"Direct discharge" means the discharge of a pollutant.

"Director" means the Director of the Department of Conservation and Recreation or his designee.

"Discharge," when used without qualification, means the discharge of a pollutant.

"Discharge of a pollutant" means:

1. Any addition of any pollutant or combination of pollutants to state waters from any point source; or
2. Any addition of any pollutant or combination of pollutants to the waters of the contiguous zone or the ocean from any point source other than a vessel or other floating craft which is being used as a means of transportation.

This definition includes additions of pollutants into surface waters from: surface runoff that is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person that do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger.

"Discharge Monitoring Report" or "DMR" means the form supplied by the department, or an equivalent form developed by the operator and approved by the board, for the reporting of self-monitoring results by operators.

"Draft permit" means a document indicating the board's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to terminate a permit, and a notice of intent to deny a permit are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination is not a draft permit. A proposed permit is not a draft permit.

"Drainage area" means a land area, water area, or both from which runoff flows to a common point.

"Effluent limitation" means any restriction imposed by the board on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into surface waters, the waters of the contiguous zone, or the ocean.

"Effluent limitations guidelines" means a regulation published by the administrator under § 304(b) of the CWA to adopt or revise effluent limitations.

"Environmental Protection" or "EPA" means the United States Environmental Protection Agency.

"Existing permit" means for the purposes of this chapter a permit issued by the permit-issuing authority and currently held by a permit applicant.

"Existing source" means any source that is not a new source or a new discharger.

"Facilities or equipment" means buildings, structures, process or production equipment or machinery that form a permanent part of a new source and that will be used in its operation, if these facilities or equipment are of such value as to represent a substantial commitment to construct. It excludes facilities or equipment used in connection with feasibility, engineering, and design studies regarding the new source or water pollution treatment for the new source.

"Facility or activity" means any VSMP point source or treatment works treating domestic sewage or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the VSMP.

"Flood fringe" means the portion of the floodplain outside the floodway that is usually covered with water from the 100-year flood or storm event. This includes, but is not limited to, the flood or floodway fringe designated by the Federal Emergency Management Agency.

"Flooding" means a volume of water that is too great to be confined within the banks or walls of the stream, water body or conveyance system and that overflows onto adjacent lands, thereby causing or threatening damage.

"Floodplain" means the area adjacent to a channel, river, stream, or other water body that is susceptible to being inundated by water normally associated with the 100-year flood or storm event. This includes, but is not limited to, the floodplain designated by the Federal Emergency Management Agency.

"Flood-prone area" means the component of a natural or restored stormwater conveyance system that is outside the main channel. Flood-prone areas may include, but are not limited to, the floodplain, the floodway, the flood fringe, wetlands, riparian buffers, or other areas adjacent to the main channel.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas, usually associated with flowing water, that must be reserved in order to discharge the 100-year flood or storm event without cumulatively increasing the water surface elevation more than one foot. This includes, but is not limited to, the floodway designated by the Federal Emergency Management Agency.

"General permit" means a VSMP permit authorizing a category of discharges under the CWA and the Act within a geographical area of the Commonwealth of Virginia.

"Hazardous substance" means any substance designated under the Code of Virginia or 40 CFR Part 116 (2000) pursuant to § 311 of the CWA.

"Hydrologic Unit Code" or "HUC" means a watershed unit established in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset.

"Illicit discharge" means any discharge to a municipal separate storm sewer that is not composed entirely of stormwater, except discharges pursuant to a VPDES or VSMP permit (other than the VSMP permit for discharges from the municipal separate storm sewer), discharges resulting from fire fighting activities, and discharges identified by and in compliance with 4VAC50-60-1220 C 2.

"Impervious cover" means a surface composed of material that significantly impedes or prevents natural infiltration of water into soil.

"Incorporated place" means a city, town, township, or village that is incorporated under the Code of Virginia.

"Indian country" means (i) all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation; (ii) all dependent Indian communities with the borders of the United States whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of a state; and (iii) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

"Indirect discharger" means a nondomestic discharger introducing "pollutants" to a "publicly owned treatment works (POTW)."

"Inspection" means an on-site review of the project's compliance with the permit, the local stormwater management program, and any applicable design criteria, or an on-site review to obtain information or conduct surveys or investigations necessary in the enforcement of the Act and this chapter.

"Interstate agency" means an agency of two or more states established by or under an agreement or compact approved by Congress, or any other agency of two or more states having substantial powers or duties pertaining to the control of pollution as determined and approved by the administrator under the CWA and regulations.

"Karst area" means any land area predominantly underlain at the surface or shallow subsurface by limestone, dolomite, or other soluble bedrock regardless of any obvious surface karst features.

"Karst features" means sinkholes, sinking and losing streams, caves, large flow springs, and other such landscape features found in karst areas.

"Land disturbance" or "land-disturbing activity" means a manmade change to the land surface that potentially changes its runoff characteristics including any clearing, grading, or excavation associated with a construction activity regulated pursuant to the CWA, the Act, and this chapter or with a Chesapeake Bay Preservation Act land-disturbing activity regulated pursuant to the Act and this chapter.

"Large construction activity" means construction activity including clearing, grading and excavation, except operations that result in the disturbance of less than five acres of total land area. Large construction activity also includes the disturbance of less than five acres of total land area that is a part of a larger common plan of development or sale if the larger common plan will ultimately disturb five acres or more. Large construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

"Large municipal separate storm sewer system" means all municipal separate storm sewers that are either:

1. Located in an incorporated place with a population of 250,000 or more as determined by the 1990 decennial census by the Bureau of Census (40 CFR Part 122 Appendix F (2000));
2. Located in the counties listed in 40 CFR Part 122 Appendix H (2000), except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties;
3. Owned or operated by a municipality other than those described in subdivision 1 or 2 of this definition and that are designated by the board as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under subdivision 1 or 2 of this definition. In making this determination the board may consider the following factors:
  - a. Physical interconnections between the municipal separate storm sewers;
  - b. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in subdivision 1 of this definition;
  - c. The quantity and nature of pollutants discharged to surface waters;
  - d. The nature of the receiving surface waters; and
  - e. Other relevant factors.
4. The board may, upon petition, designate as a large municipal separate storm sewer system, municipal separate storm sewers located within the boundaries of a region defined by a stormwater management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in this definition.

"Layout" means a conceptual drawing sufficient to provide for the specified stormwater management facilities required at the time of approval.

"Linear development project" means a land-disturbing activity that is linear in nature such as, but not limited to, (i) the construction of electric and telephone utility lines, and natural gas pipelines; (ii) construction of tracks, rights-of-way, bridges, communication facilities and other related structures of a railroad company; (iii) highway construction projects; (iv) construction of stormwater channels and stream restoration activities; and (v) water and sewer lines. Private subdivision roads or streets shall not be considered linear development projects.

"Local stormwater management program" or "local program" means the various methods employed by a locality to manage the quality and quantity of runoff resulting from land-disturbing activities and shall include such items as local ordinances, permit requirements, policies and guidelines, technical materials, plan review, inspection, enforcement, and evaluation consistent with the Act and this chapter. Upon board approval of a local stormwater management program, it shall be recognized as a qualifying local program.

"Locality" means a county, city, or town.

"Localized flooding" means smaller scale flooding that may occur outside of a stormwater conveyance system. This may include high water, ponding, or standing water from stormwater runoff, which is likely to cause property damage or unsafe conditions.

"Main channel" means the portion of the stormwater conveyance system that contains the base flow and small frequent storm events.

"Major facility" means any VSMP facility or activity classified as such by the regional administrator in conjunction with the board.

"Major modification" means, for the purposes of this chapter, the modification or amendment of an existing permit before its expiration that is not a minor modification as defined in this regulation.

"Major municipal separate storm sewer outfall" or "major outfall" means a municipal separate storm sewer outfall that discharges from a single pipe with an inside diameter of 36 inches or more or its equivalent (discharge from a single conveyance other than circular pipe which is associated with a drainage area of more than 50 acres); or for municipal separate storm sewers that receive stormwater from lands zoned for industrial activity (based on comprehensive zoning plans or the equivalent), with an outfall that discharges from a single pipe with an inside diameter of 12 inches or more or from its equivalent (discharge from other than a circular pipe associated with a drainage area of two acres or more).

"Manmade" means constructed by man.

"Maximum daily discharge limitation" means the highest allowable daily discharge.

"Maximum extent practicable" or "MEP" means the technology-based discharge standard for municipal separate storm sewer systems established by CWA § 402(p). MEP is achieved, in part, by selecting and implementing effective structural and nonstructural best management practices (BMPs) and rejecting ineffective BMPs and replacing them with effective best management practices (BMPs). MEP is an iterative standard, which evolves over time as urban runoff management knowledge increases. As such, the operator's MS4 program must continually be assessed and modified to incorporate improved programs, control measures, BMPs, etc., to attain compliance with water quality standards.

"Medium municipal separate storm sewer system" means all municipal separate storm sewers that are either:

1. Located in an incorporated place with a population of 100,000 or more but less than 250,000 as determined by the 1990 decennial census by the Bureau of Census (40 CFR Part 122 Appendix G (2000));

2. Located in the counties listed in 40 CFR Part 122 Appendix I (2000), except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties;

3. Owned or operated by a municipality other than those described in subdivision 1 or 2 of this definition and that are designated by the board as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under subdivision 1 or 2 of this definition. In making this determination the board may consider the following factors:

- a. Physical interconnections between the municipal separate storm sewers;

- b. The location of discharges from the designated municipal separate storm sewer relative to discharges from municipal separate storm sewers described in subdivision 1 of this definition;

282 c. The quantity and nature of pollutants discharged to surface waters;  
 283 d. The nature of the receiving surface waters; or  
 284 e. Other relevant factors.

285 4. The board may, upon petition, designate as a medium municipal separate storm  
 286 sewer system, municipal separate storm sewers located within the boundaries of a  
 287 region defined by a stormwater management regional authority based on a jurisdictional,  
 288 watershed, or other appropriate basis that includes one or more of the systems  
 289 described in subdivisions 1, 2 and 3 of this definition.

290 "Minor modification" means, for the purposes of this chapter, minor modification or  
 291 amendment of an existing permit before its expiration for the reasons listed at 40 CFR 122.63  
 292 and as specified in 4VAC50-60-640. Minor modification for the purposes of this chapter also  
 293 means other modifications and amendments not requiring extensive review and evaluation  
 294 including, but not limited to, changes in EPA promulgated test protocols, increasing monitoring  
 295 frequency requirements, changes in sampling locations, and changes to compliance dates  
 296 within the overall compliance schedules. A minor permit modification or amendment does not  
 297 substantially alter permit conditions, substantially increase or decrease the amount of surface  
 298 water impacts, increase the size of the operation, or reduce the capacity of the facility to protect  
 299 human health or the environment.

300 "Municipal separate storm sewer" means a conveyance or system of conveyances  
 301 otherwise known as a municipal separate storm sewer system, including roads with drainage  
 302 systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm  
 303 drains:

304 1. Owned or operated by a federal, state, city, town, county, district, association, or other  
 305 public body, created by or pursuant to state law, having jurisdiction or delegated  
 306 authority for erosion and sediment control and stormwater management, or a designated  
 307 and approved management agency under § 208 of the CWA that discharges to surface  
 308 waters;

309 2. Designed or used for collecting or conveying stormwater;

310 3. That is not a combined sewer; and

311 4. That is not part of a publicly owned treatment works.

312 "Municipal separate storm sewer system" or "MS4" means all separate storm sewers that  
 313 are defined as "large" or "medium" or "small" municipal separate storm sewer systems or  
 314 designated under 4VAC50-60-380 A 1.

315 "Municipal Separate Storm Sewer System Management Program" or "MS4 Program" means  
 316 a management program covering the duration of a permit for a municipal separate storm sewer  
 317 system that includes a comprehensive planning process that involves public participation and  
 318 intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent  
 319 practicable, to protect water quality, and to satisfy the appropriate water quality requirements of  
 320 the CWA and regulations and the Act and attendant regulations, using management practices,  
 321 control techniques, and system, design and engineering methods, and such other provisions  
 322 that are appropriate.

323 "Municipality" means a city, town, county, district, association, or other public body created  
 324 by or under state law and having jurisdiction over disposal of sewage, industrial wastes, or other  
 325 wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and  
 326 approved management agency under § 208 of the CWA.

327 "National Pollutant Discharge Elimination System" or "NPDES" means the national program  
 328 for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits,

and imposing and enforcing pretreatment requirements under §§ 307, 402, 318, and 405 of the CWA. The term includes an approved program.

"Natural channel design concepts" means the utilization of engineering analysis based on fluvial geomorphic processes to create, rehabilitate, restore, or stabilize an open conveyance system for the purpose of creating or recreating a stream that conveys its bankfull storm event within its banks and allows larger flows to access its floodplain.

"Natural stream" means a tidal or nontidal watercourse that is part of the natural topography. It usually maintains a continuous or seasonal flow during the year and is characterized as being irregular in cross-section with a meandering course. Constructed channels such as drainage ditches or swales shall not be considered natural streams; however, channels designed utilizing natural channel design concepts may be considered natural streams.

"New discharger" means any building, structure, facility, or installation:

1. From which there is or may be a discharge of pollutants;
2. That did not commence the discharge of pollutants at a particular site prior to August 13, 1979;
3. Which is not a new source; and
4. Which has never received a finally effective VPDES or VSMP permit for discharges at that site.

This definition includes an indirect discharger that commences discharging into surface waters after August 13, 1979. It also includes any existing mobile point source (other than an offshore or coastal oil and gas exploratory drilling rig or a coastal oil and gas developmental drilling rig) such as a seafood processing rig, seafood processing vessel, or aggregate plant, that begins discharging at a site for which it does not have a permit; and any offshore or coastal mobile oil and gas exploratory drilling rig or coastal mobile oil and gas developmental drilling rig that commences the discharge of pollutants after August 13, 1979.

"New permit" means, for the purposes of this chapter, a permit issued by the permit-issuing authority to a permit applicant that does not currently hold and has never held a permit of that type, for that activity, at that location.

"New source," means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced:

1. After promulgation of standards of performance under § 306 of the CWA that are applicable to such source; or
2. After proposal of standards of performance in accordance with § 306 of the CWA that are applicable to such source, but only if the standards are promulgated in accordance with § 306 of the CWA within 120 days of their proposal.

"Nonpoint source pollution" means pollution such as sediment, nitrogen and phosphorous, hydrocarbons, heavy metals, and toxics whose sources cannot be pinpointed but rather are washed from the land surface in a diffuse manner by stormwater runoff.

"Operator" means the owner or operator of any facility or activity subject to the VSMP permit regulation. In the context of stormwater associated with a large or small construction activity, operator means any person associated with a construction project that meets either of the following two criteria: (i) the person has direct operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications or (ii) the person has day-to-day operational control of those activities at a project that are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other permit conditions (i.e., they are authorized to direct workers at a site to carry out activities required by the stormwater pollution prevention plan or comply with other permit conditions). In the context



of stormwater discharges from Municipal Separate Storm Sewer Systems (MS4s), operator means the operator of the regulated MS4 system.

"Outfall" means, when used in reference to municipal separate storm sewers, a point source at the point where a municipal separate storm sewer discharges to surface waters and does not include open conveyances connecting two municipal separate storm sewers, or pipes, tunnels or other conveyances which connect segments of the same stream or other surface waters and are used to convey surface waters.

"Overburden" means any material of any nature, consolidated or unconsolidated, that overlies a mineral deposit, excluding topsoil or similar naturally occurring surface materials that are not disturbed by mining operations.

"Owner" means the Commonwealth or any of its political subdivisions including, but not limited to, sanitation district commissions and authorities, and any public or private institution, corporation, association, firm or company organized or existing under the laws of this or any other state or country, or any officer or agency of the United States, or any person or group of persons acting individually or as a group that owns, operates, charters, rents, or otherwise exercises control over or is responsible for any actual or potential discharge of sewage, industrial wastes, or other wastes or pollutants to state waters, or any facility or operation that has the capability to alter the physical, chemical, or biological properties of state waters in contravention of § 62.1-44.5 of the Code of Virginia, the Act and this chapter.

"Peak flow rate" means the maximum instantaneous flow from a prescribed design storm at a particular location.

"Percent impervious" means the impervious area within the site divided by the area of the site multiplied by 100.

"Permit" means an approval issued by the permit-issuing authority for the initiation of a land-disturbing activity or for stormwater discharges from an MS4. Permit does not include any permit that has not yet been the subject of final permit-issuing authority action, such as a draft permit or a proposed permit.

"Permit-issuing authority" means the board, the department, or a locality that is delegated authority by the board to issue, deny, revoke, terminate, or amend stormwater permits under the provisions of the Act and this chapter.

"Permittee" means the person or locality to which the permit is issued, including any owner or operator whose construction site is covered under a construction general permit.

"Person" means any individual, corporation, partnership, association, state, municipality, commission, or political subdivision of a state, governmental body (including but not limited to a federal, state, or local entity), any interstate body or any other legal entity.

"Point of discharge" means a location at which concentrated stormwater runoff is released.

"Point source" means any discernible, confined, and discrete conveyance including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel, or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.

"Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC § 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

1. Sewage from vessels; or

2. Water, gas, or other material that is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well if the well used either to facilitate production or for disposal purposes is approved by the board and if the board determines that the injection or disposal will not result in the degradation of ground or surface water resources.

"Pollutant discharge" means the average amount of a particular pollutant measured in pounds per year or other standard reportable unit as appropriate, delivered by stormwater runoff.

"Pollution" means such alteration of the physical, chemical or biological properties of any state waters as will or is likely to create a nuisance or render such waters (a) harmful or detrimental or injurious to the public health, safety or welfare, or to the health of animals, fish or aquatic life; (b) unsuitable with reasonable treatment for use as present or possible future sources of public water supply; or (c) unsuitable for recreational, commercial, industrial, agricultural, or other reasonable uses, provided that (i) an alteration of the physical, chemical, or biological property of state waters, or a discharge or deposit of sewage, industrial wastes or other wastes to state waters by any owner which by itself is not sufficient to cause pollution, but which, in combination with such alteration of or discharge or deposit to state waters by other owners, is sufficient to cause pollution; (ii) the discharge of untreated sewage by any owner into state waters; and (iii) contributing to the contravention of standards of water quality duly established by the State Water Control Board, are "pollution" for the terms and purposes of this chapter.

"Postdevelopment" refers to conditions that reasonably may be expected or anticipated to exist after completion of the land development activity on a specific site.

"Predevelopment" refers to the conditions that exist at the time that plans for the land development of a tract of land are submitted to the plan approval authority. Where phased development or plan approval occurs (preliminary grading, demolition of existing structures, roads and utilities, etc.), the existing conditions at the time prior to the first item being submitted shall establish predevelopment conditions.

"Prior developed lands" means land that has been previously utilized for residential, commercial, industrial, institutional, recreation, transportation or utility facilities or structures, and that will have the impervious areas associated with those uses altered during a land-disturbing activity.

"Privately owned treatment works" or "PVOTW" means any device or system that is (i) used to treat wastes from any facility whose operator is not the operator of the treatment works and (ii) not a POTW.

"Proposed permit" means a VSMP permit prepared after the close of the public comment period (and, when applicable, any public hearing and administrative appeals) that is sent to EPA for review before final issuance. A proposed permit is not a draft permit.

"Publicly owned treatment works" or "POTW" means a treatment works as defined by § 212 of the CWA that is owned by a state or municipality (as defined by § 502(4) of the CWA). This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in § 502(4) of the CWA, that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

"Qualified personnel" means a person knowledgeable in the principles and practice of erosion and sediment controls who possesses the skills to assess conditions at the construction site for the operator that could impact stormwater quality and to assess the effectiveness of any sediment and erosion control measures selected to control the quality of stormwater discharges

472 from the construction activity. This may include a licensed professional engineer, responsible  
473 land disturber, or other person who holds a certificate of competency from the board in the area  
474 of project inspection or combined administrator.

475 "Qualifying local stormwater management program" or "qualifying local program" means a  
476 local stormwater management program, administered by a locality, that has been authorized by  
477 the board. To authorize a qualifying local program, the board must find that the ordinances  
478 adopted by the locality are consistent with the VSMP General Permit for Discharges of  
479 Stormwater from Construction Activities (Part XIV (4VAC50-60-1100 et seq.) of this chapter.

480 "Recommencing discharger" means a source that recommences discharge after terminating  
481 operations.

482 "Regional administrator" means the Regional Administrator of Region III of the  
483 Environmental Protection Agency or the authorized representative of the regional administrator.

484 "Revoked permit" means, for the purposes of this chapter, an existing permit that is  
485 terminated by the board before its expiration.

486 "Runoff coefficient" means the fraction of total rainfall that will appear at a conveyance as  
487 runoff.

488 "Runoff" or "stormwater runoff" means that portion of precipitation that is discharged across  
489 the land surface or through conveyances to one or more waterways.

490 "Runoff characteristics" include maximum velocity, peak flow rate, volume, and flow  
491 duration.

492 "Runoff volume" means the volume of water that runs off the site from a prescribed design  
493 storm.

494 "Schedule of compliance" means a schedule of remedial measures included in a permit,  
495 including an enforceable sequence of interim requirements (for example, actions, operations, or  
496 milestone events) leading to compliance with the Act, the CWA and regulations.

497 "Secretary" means the Secretary of the Army, acting through the Chief of Engineers.

498 "Severe property damage" means substantial physical damage to property, damage to the  
499 treatment facilities that causes them to become inoperable, or substantial and permanent loss of  
500 natural resources that can reasonably be expected to occur in the absence of a bypass. Severe  
501 property damage does not mean economic loss caused by delays in production.

502 "Significant materials" means, but is not limited to: raw materials; fuels; materials such as  
503 solvents, detergents, and plastic pellets; finished materials such as metallic products; raw  
504 materials used in food processing or production; hazardous substances designated under §  
505 101(14) of CERCLA (42 USC § 9601(14)); any chemical the facility is required to report  
506 pursuant to § 313 of Title III of SARA (42 USC § 11023); fertilizers; pesticides; and waste  
507 products such as ashes, slag and sludge that have the potential to be released with stormwater  
508 discharges.

509 "Single jurisdiction" means, for the purposes of this chapter, a single county or city. The term  
510 county includes incorporated towns which are part of the county.

511 "Site" means the land or water area where any facility or land-disturbing activity is physically  
512 located or conducted, including adjacent land used or preserved in connection with the facility or  
513 land-disturbing activity. Areas channelward of mean low water in tidal Virginia shall not be  
514 considered part of a site.

515 "Site hydrology" means the movement of water on, across, through and off the site as  
516 determined by parameters including, but not limited to, soil types, soil permeability, vegetative  
517 cover, seasonal water tables, slopes, land cover, and impervious cover.

518 "Small construction activity" means:

1. Construction activities including clearing, grading, and excavating that results in land disturbance of equal to or greater than one acre, and less than five acres. Small construction activity also includes the disturbance of less than one acre of total land area that is part of a larger common plan of development or sale if the larger common plan will ultimately disturb equal to or greater than one and less than five acres. Small construction activity does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility. The board may waive the otherwise applicable requirements in a general permit for a stormwater discharge from construction activities that disturb less than five acres where stormwater controls are not needed based on a "total maximum daily load" (TMDL) approved or established by EPA that addresses the pollutant(s) of concern or, for nonimpaired waters that do not require TMDLs, an equivalent analysis that determines allocations for small construction sites for the pollutant(s) of concern or that determines that such allocations are not needed to protect water quality based on consideration of existing in-stream concentrations, expected growth in pollutant contributions from all sources, and a margin of safety. For the purpose of this subdivision, the pollutant(s) of concern include sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the construction activity. The operator must certify to the board that the construction activity will take place, and stormwater discharges will occur, within the drainage area addressed by the TMDL or equivalent analysis.

2. Any other construction activity designated by the either the board or the EPA regional administrator, based on the potential for contribution to a violation of a water quality standard or for significant contribution of pollutants to surface waters.

"Small municipal separate storm sewer system" or "small MS4" means all separate storm sewers that are (i) owned or operated by the United States, a state, city, town, borough, county, parish, district, association, or other public body (created by or pursuant to state law) having jurisdiction over disposal of sewage, industrial wastes, stormwater, or other wastes, including special districts under state law such as a sewer district, flood control district or drainage district, or similar entity, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under § 208 of the CWA that discharges to surface waters and (ii) not defined as "large" or "medium" municipal separate storm sewer systems or designated under 4VAC50-60-380 A 1. This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highway and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.

"Source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants.

"State" means the Commonwealth of Virginia.

"State/EPA agreement" means an agreement between the EPA regional administrator and the state that coordinates EPA and state activities, responsibilities and programs including those under the CWA and the Act.

"State project" means any land development project that is undertaken by any state agency, board, commission, authority or any branch of state government, including state-supported institutions of higher learning.

"State Water Control Law" means Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1 of the Code of Virginia.

567 "State waters" means all water, on the surface and under the ground, wholly or partially  
568 within or bordering the Commonwealth or within its jurisdiction, including wetlands.

569 "Stormwater" means precipitation that is discharged across the land surface or through  
570 conveyances to one or more waterways and that may include stormwater runoff, snow melt  
571 runoff, and surface runoff and drainage.

572 "Stormwater conveyance system" means a combination of drainage components that are  
573 used to convey stormwater discharge, either within or downstream of the land-disturbing  
574 activity. This includes:

575 1. "Manmade stormwater conveyance system" means a pipe, ditch, vegetated swale, or  
576 other stormwater conveyance system constructed by man except for restored  
577 stormwater conveyance systems;

578 2. "Natural stormwater conveyance system" means the main channel of a natural stream  
579 and the flood-prone area adjacent to the main channel; or

580 3. "Restored stormwater conveyance system" means a stormwater conveyance system  
581 that has been designed and constructed using natural channel design concepts.  
582 Restored stormwater conveyance systems include the main channel and the flood-prone  
583 area adjacent to the main channel.

584 "Stormwater discharge associated with construction activity" means a discharge of  
585 stormwater runoff from areas where land-disturbing activities (e.g., clearing, grading, or  
586 excavation); construction materials or equipment storage or maintenance (e.g., fill piles, borrow  
587 area, concrete truck washout, fueling); or other industrial stormwater directly related to the  
588 construction process (e.g., concrete or asphalt batch plants) are located.

589 "Stormwater discharge associated with large construction activity" means the discharge of  
590 stormwater from large construction activities.

591 "Stormwater discharge associated with small construction activity" means the discharge of  
592 stormwater from small construction activities.

593 "Stormwater management facility" means a control measure that controls stormwater runoff  
594 and changes the characteristics of that runoff including, but not limited to, the quantity and  
595 quality, the period of release or the velocity of flow.

596 "Stormwater management plan" means a document(s) containing material for describing  
597 methods for complying with the requirements of the local program or this chapter.

598 "Stormwater management program" means a program established by a locality that is  
599 consistent with the requirements of the Act, this chapter and associated guidance documents.

600 "Stormwater Pollution Prevention Plan" or "SWPPP" means a document that is prepared in  
601 accordance with good engineering practices and that identifies potential sources of pollutants  
602 that may reasonably be expected to affect the quality of stormwater discharges from the  
603 construction site. In addition the document shall identify and require the implementation of  
604 control measures, and shall include, but not be limited to the inclusion of, or the incorporation by  
605 reference of, an approved erosion and sediment control plan, an approved stormwater  
606 management plan, and a pollution prevention plan.

607 "Stormwater program administrative authority" means a local stormwater management  
608 program or the department, as the permit-issuing authority, in the absence of a local stormwater  
609 management program, which administers the Virginia Stormwater Management Program.

610 "Subdivision" means the same as defined in § 15.2-2201 of the Code of Virginia.

611 "Surface waters" means:

1. All waters that are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
2. All interstate waters, including interstate wetlands;
3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds the use, degradation, or destruction of which would affect or could affect interstate or foreign commerce including any such waters:
  - a. That are or could be used by interstate or foreign travelers for recreational or other purposes;
  - b. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
  - c. That are used or could be used for industrial purposes by industries in interstate commerce.
4. All impoundments of waters otherwise defined as surface waters under this definition;
5. Tributaries of waters identified in subdivisions 1 through 4 of this definition;
6. The territorial sea; and
7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in subdivisions 1 through 6 of this definition.

Waste treatment systems, including treatment ponds or lagoons designed to meet the requirements of the CWA and the law, are not surface waters. Surface waters do not include prior converted cropland. Notwithstanding the determination of an area's status as prior converted cropland by any other agency, for the purposes of the CWA, the final authority regarding the CWA jurisdiction remains with the EPA.

"Total dissolved solids" means the total dissolved (filterable) solids as determined by use of the method specified in 40 CFR Part 136 (2000).

"Total maximum daily load" or "TMDL" means the sum of the individual wasteload allocations for point sources, load allocations (LAs) for nonpoint sources, natural background loading and a margin of safety. TMDLs can be expressed in terms of either mass per time, toxicity, or other appropriate measure. The TMDL process provides for point versus nonpoint source trade-offs.

"Toxic pollutant" means any pollutant listed as toxic under § 307(a)(1) of the CWA or, in the case of sludge use or disposal practices, any pollutant identified in regulations implementing § 405(d) of the CWA.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology based permit effluent limitations because of factors beyond the reasonable control of the operator. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

"Variance" means any mechanism or provision under § 301 or § 316 of the CWA or under 40 CFR Part 125 (2000), or in the applicable federal effluent limitations guidelines that allows modification to or waiver of the generally applicable effluent limitation requirements or time deadlines of the CWA. This includes provisions that allow the establishment of alternative limitations based on fundamentally different factors or on § 301(c), § 301(g), § 301(h), § 301(i), or § 316(a) of the CWA.

"Virginia Pollutant Discharge Elimination System (VPDES) permit" or "VPDES permit" means a document issued by the State Water Control Board pursuant to the State Water

Control Law authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters and the use or disposal of sewage sludge.

"Virginia Stormwater Management Act" means Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia.

"Virginia Stormwater BMP Clearinghouse website" means a website that contains detailed design standards and specifications for control measures that may be used in Virginia to comply with the requirements of the Virginia Stormwater Management Act and associated regulations and that is jointly created by the department and the Virginia Water Resources Research Center subject to advice to the director from a permanent stakeholder advisory committee.

"Virginia Stormwater Management Handbook" means a collection of pertinent information that provides general guidance for compliance with the Act and associated regulations and is developed by the department with advice from a stakeholder advisory committee.

"Virginia Stormwater Management Program" or "VSMP" means the Virginia program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing requirements pursuant to the CWA, the Act, this chapter, and associated guidance documents.

"Virginia Stormwater Management Program permit" or "VSMP permit" means a document issued by the permit-issuing authority pursuant to the Virginia Stormwater Management Act and this chapter authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters. Under the approved state program, a VSMP permit is equivalent to a NPDES permit.

"VSMP application" or "application" means the standard form or forms, including any additions, revisions or modifications to the forms, approved by the administrator and the board for applying for a VSMP permit.

"Wasteload allocation" or "wasteload" or "WLA" means the portion of a receiving surface water's loading or assimilative capacity allocated to one of its existing or future point sources of pollution. WLAs are a type of water quality-based effluent limitation.

"Water quality standards" or "WQS" means provisions of state or federal law that consist of a designated use or uses for the waters of the Commonwealth and water quality criteria for such waters based on such uses. Water quality standards are to protect the public health or welfare, enhance the quality of water, and serve the purposes of the State Water Control Law (§ 62.1-44.2 et seq. of the Code of Virginia), the Act (§ 10.1-603.1 et seq. of the Code of Virginia), and the CWA (33 USC § 1251 et seq.).

"Watershed" means a defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet. In karst areas, the karst feature to which the water drains may be considered the single outlet for the watershed.

"Wetlands" means those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

"Whole effluent toxicity" means the aggregate toxic effect of an effluent measured directly by a toxicity test.

Part XV

General Virginia Stormwater Management Program (VSMP) Permit for Discharges of  
Stormwater from Small Municipal Separate Storm Sewer Systems

**4VAC50-60-1200. Definitions.**

The words and terms used in this part shall have the meanings defined in the Act and this chapter unless the context clearly indicates otherwise, except that for the purposes of this part:

"Date brought on line" means the date when the operator determines that a new stormwater management facility is properly functioning to meet its designed pollutant load reduction.

"MS4 Program Plan" means the completed registration statement and all approved additions, changes and modifications detailing the comprehensive program implemented by the operator under this permit to reduce the pollutants in the stormwater discharged from its municipal separate storm sewer system (MS4) that has been submitted and accepted by the department.

"Physically interconnected" means that a MS4 directly discharges to a second MS4.

**4VAC50-60-1210. Purpose; delegation of authority; effective date of the permit.**

A. This VSMP general permit regulation governs stormwater discharges from regulated small municipal separate storm sewer systems (regulated small MS4s) to surface waters of the Commonwealth of Virginia.

1. Unless the small MS4 qualifies for a waiver under subdivision 3 of this subsection, operators are regulated if they operate a small MS4, including but not limited to systems operated by federal, state, tribal, and local governments, including the Virginia Department of Transportation; and:

a. The small MS4 is located in an urbanized area as determined by the latest Decennial Census by the Bureau of the Census. If the small MS4 is not located entirely within an urbanized area, only the portion that is within the urbanized area is regulated; or

b. The small MS4 is designated by the board, including where the designation is pursuant to 40 CFR Part 123.35 (b)(3) or (b)(4) (2001), or is based upon a petition under 4VAC50-60-380 D.

2. A small MS4 may be the subject of a petition pursuant to 4VAC50-60-380 D to the board to require a VSMP permit for their discharge of stormwater. If the board determines that a small MS4 needs a permit and the operator applies for coverage under this general permit, the operator is required to comply with the requirements of Part XV (4VAC50-60-1180 et seq.) of this chapter.

3. The board may waive the requirements otherwise applicable to a regulated small MS4 if it meets the criteria of subdivision 4 or 5 of this subsection. If a waiver is received under this subsection, the operator may subsequently be required to seek coverage under a VSMP permit in accordance with 4VAC50-60-400 C if circumstances change. (See also 40 CFR Part 123.35 (b) (2001))

4. The board may waive permit coverage if the regulated small MS4 serves a population of less than 1,000 within the urbanized area and meets the following criteria:

a. The system is not contributing substantially to the pollutant loadings of a physically interconnected MS4 that is regulated by the VSMP stormwater program; and

b. Pollutants are discharged that have been identified as a cause of impairment of any water body to which the regulated small MS4 discharges but stormwater controls are not needed based on wasteload allocations that are part of a State Water Control



Board established and EPA approved "total maximum daily load" (TMDL) that addresses the pollutants of concern.

5. The board may waive permit coverage if the regulated small MS4 serves a population under 10,000 and meets the following criteria:

- a. The State Water Control Board has evaluated all surface waters, including small streams, tributaries, lakes, and ponds, that receive a discharge from the regulated small MS4;
- b. For all such waters, the board has determined that stormwater controls are not needed based on wasteload allocations that are part of a State Water Control Board established and EPA approved TMDL that addresses the pollutants of concern or, if a TMDL has not been developed and approved, an equivalent analysis that determines sources and allocations for the pollutants of concern;
- c. For the purpose of this subdivision, the pollutants of concern include biochemical oxygen demand (BOD), sediment or a parameter that addresses sediment (such as total suspended solids, turbidity or siltation), pathogens, oil and grease, and any pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the regulated small MS4; and
- d. The board has determined that future discharges from the regulated small MS4 do not have the potential to result in exceedances of water quality standards, including impairment of designated uses, or other significant water quality impacts, including habitat and biological impacts.

B. This general permit will become effective on July 9, 2008, and will expire five years from the effective date.

#### **4VAC50-60-1220. Authorization to discharge.**

A. Any operator governed by this general permit is hereby authorized to discharge stormwater from the regulated small MS4 to surface waters of the Commonwealth of Virginia provided that the operator files and receives acceptance of the registration statement of 4VAC50-60-1230 by the department and files the permit fees required by Part XIII (4VAC50-60-700 et seq.) of this chapter, and provided that the operator shall not have been required to obtain an individual permit according to 4VAC50-60-410 B.

B. The operator shall not be authorized by this general permit to discharge to state waters specifically named in other State Water Control Board or board regulations or policies that prohibit such discharges.

C. Nonstormwater discharges or flows into the regulated small MS4 are authorized by this permit and do not need to be addressed in the MS4 Program required under 4VAC50-60-1240, Section II B 3, if:

1. The nonstormwater discharges or flows are covered by a separate individual or general VPDES or VSMP permit for nonstormwater discharges;
2. The individual nonstormwater discharges or flows have been identified in writing by the Department of Environmental Quality as de minimis discharges that are not significant sources of pollutants to state waters and do not require a VPDES permit;
3. Nonstormwater discharges or flows in the following categories have not been identified by the operator, State Water Control Board, or by the board as significant contributors of pollutants to the regulated small MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car

washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, street wash water, and discharges or flows from fire fighting activities; or

4. The discharge of materials resulting from a spill is necessary to prevent loss of life, personal injury, or severe property damage. The operator shall take, or ensure that the responsible party takes, all reasonable steps to minimize or prevent any adverse effect on human health or the environment. This permit does not transfer liability for a spill itself from the party(ies) responsible for the spill to the operator nor relieve the party(ies) responsible for a spill from the reporting requirements of 40 CFR Part 117 and 40 CFR Part 302 (2001).

In the event the operator is unable to meet certain conditions of this permit due to circumstances beyond the operator's control, a written explanation of the circumstances that prevented permit compliance shall be submitted to the department in the annual report. Circumstances beyond the control of the operator may include abnormal climatic conditions; weather conditions that make certain requirements unsafe or impracticable; or unavoidable equipment failures caused by weather conditions or other conditions beyond the reasonable control of the operator (operator error is not a condition beyond the control of the operator). The failure to provide adequate program funding, staffing or equipment maintenance shall not be an acceptable explanation for failure to meet permit conditions. The board will determine, at its sole discretion, whether the reported information will result in an enforcement action.

D. Discharges that are excluded from obtaining a VSMP permit pursuant to 4VAC50-60-300 are exempted from the regulatory requirements of this permit.

E. Pursuant to 40 CFR Part 122.34 (c) (2001), for those portions of a regulated small MS4 that are covered under a VPDES permit for industrial stormwater discharges, the operator shall follow the conditions established under the VPDES permit. Upon termination of VPDES permit coverage, discharges from previously VPDES authorized outfalls shall meet the conditions of this permit provided it has been determined by the board that an individual MS4 permit is not required.

F. Stormwater discharges from specific MS4 outfalls that have been granted conditional exclusion for "no exposure" of industrial activities and materials to stormwater under the VPDES permitting program shall obtain coverage under this VSMP general permit. The Department of Environmental Quality is responsible for determining compliance with the conditional exclusion under the State Water Control Law and attendant regulations.

G. Receipt of this VSMP general permit does not relieve any operator of the responsibility to comply with any other applicable federal, state or local statute, ordinance or regulation.

#### **4VAC50-60-1230. Permit application (registration statement).**

A. Deadline for submitting a registration statement.

1. Operators of regulated small MS4s designated under 4VAC50-60-1210 A 1 b, that are applying for coverage under this VSMP general permit must submit a complete registration statement to the department within 180 days of notice of designation, unless the board grants a later date.

2. In order to continue uninterrupted coverage under the VSMP general permit, operators of regulated small MS4s shall submit a new registration statement at least 90 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

B. Registration statement.

The registration statement shall include the following information:

1. The name and location (county or city name) of the regulated small MS4 for which the registration statement is submitted;
2. The name, type (city, county, incorporated town, unincorporated town, college or university, local school board, military installation, transportation system, federal or state facility, or other), and address of the operator of the regulated small MS4;
3. The Hydrologic Unit Code(s) as identified in the most recent version of Virginia's 6th Order National Watershed Boundary Dataset (available online at [http://www.dcr.virginia.gov/soil\\_&\\_water/hu.shtml](http://www.dcr.virginia.gov/soil_&_water/hu.shtml)) currently receiving discharges or that have potential to receive discharges from the regulated small MS4;
4. The estimated drainage area, in acres, served by the regulated small MS4 directly discharging to any impaired receiving surface waters listed in the 2006 Virginia 305(b)/303(d) Water Quality Assessment Integrated Report, and a description of the land use for each such drainage area;
5. A listing of any TMDL wasteloads allocated to the regulated small MS4. This information may be found at: <http://www.deq.state.va.us/tmdl/develop.html>;
6. The name(s) of any regulated physically interconnected MS4s to which the regulated small MS4 discharges;
7. A copy of the MS4 Program Plan that includes:
  - a. A list of best management practices (BMPs) that the operator proposes to implement for each of the stormwater minimum control measures and their associated measurable goals pursuant to 4VAC50-60-1240, Section II B, that includes:
    - (1) A list of the existing policies, ordinances, schedules, inspection forms, written procedures, and other documents necessary for best management practice implementation; and
    - (2) The individuals, departments, divisions, or units responsible for implementing the best management practices;
  - b. The objective and expected results of each best management practice in meeting the measurable goals of the stormwater minimum control measures;
  - c. The implementation schedule including any interim milestones for the implementation of a proposed new best management practice; and
  - d. The method that will be utilized to determine the effectiveness of each best management practice and the MS4 Program as a whole;
8. A list of all existing signed agreements between the operator and any applicable third parties where the operator has entered into an agreement in order to implement minimum control measures or portions of minimum control measures;
9. The name, address, telephone number and email address of either the principal executive officer or ranking elected official as defined in 4VAC50-60-370;
10. The name, position title, address, telephone number and email address of any duly authorized representative as defined in 4VAC50-60-370; and
11. The following certification: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and

complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

C. The registration statement shall be signed by the principal executive officer or ranking elected official in accordance with 4VAC50-60-370.

D. An operator may file its own registration statement, or the operator and other operators of regulated small MS4s may jointly submit a registration statement. If responsibilities for meeting the stormwater minimum control measures will be shared with other municipalities or governmental entities, the registration statement must describe which stormwater minimum control measures the operator will implement and identify the entities that will implement the other stormwater minimum control measures within the area served by the regulated small MS4.

E. Where to submit. The registration statement shall be submitted to:

Department of Conservation and Recreation  
Division of Soil and Water Conservation  
Stormwater Permitting  
203 Governor Street, Suite 206  
Richmond, VA 23219

#### **4VAC50-60-1240. General permit.**

Any operator whose registration statement is accepted by the department will receive coverage under the following permit and shall comply with the requirements therein and be subject to all applicable requirements of the Virginia Stormwater Management Act (Article 1.1 (§ 10.1-603.1 et seq.) of Chapter 6 of Title 10.1 of the Code of Virginia) and the Virginia Stormwater Management Program (VSMP) Permit Regulations (4VAC50-60).

General Permit No.: VAR04

Effective Date: July 9, 2008

Expiration Date: July 8, 2013

#### **GENERAL PERMIT FOR DISCHARGES OF STORMWATER FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS**

#### **AUTHORIZATION TO DISCHARGE UNDER THE VIRGINIA STORMWATER MANAGEMENT PROGRAM AND THE VIRGINIA STORMWATER MANAGEMENT ACT**

In compliance with the provisions of the Clean Water Act, as amended and pursuant to the Virginia Stormwater Management Act and regulations adopted pursuant thereto, this permit authorizes operators of small municipal separate storm sewer systems to discharge to surface waters within the boundaries of the Commonwealth of Virginia, except those waters specifically named in State Water Control Board and Virginia Soil and Water Conservation Board regulations or policies which prohibit such discharges.

The authorized discharge shall be in accordance with this cover page, Section I—Discharge Authorization and Special Conditions, Section II—MS4 Program and Section III—Conditions Applicable To All VSMP Permits, as set forth herein. The operator shall utilize all legal authority provided by the laws and regulations of the Commonwealth of Virginia to control discharges to and from the MS4. This legal authority may be a combination of statute, ordinance, permit, contract, order or interjurisdictional agreements.

#### **SECTION I**

#### **DISCHARGE AUTHORIZATION AND SPECIAL CONDITIONS**

A. Coverage under this permit. During the period beginning with the date of coverage under this general permit and lasting until the expiration and reissuance of this permit, the operator is authorized to discharge in accordance with this permit from the small municipal separate storm sewer system identified in the registration statement into surface waters.

B. Special conditions. A total maximum daily load (TMDL) approved by the State Water Control Board may include a wasteload allocation to the regulated small MS4 that identifies the pollutant for which stormwater controls are necessary for the surface waters to meet water quality standards. The pollutant identified in a wasteload allocation as of the effective date of this permit must be addressed through the measurable goals of the MS4 Program Plan. A wasteload allocation does not establish that the operator of a regulated small MS4 is in or out of compliance with the conditions of this permit.

1. The operator shall update its MS4 Program Plan to include measurable goals, schedules, and strategies to ensure MS4 Program consistency with the assumptions of the TMDL WLA within 18 months of permit coverage; or, within 18 months of the effective date of any reopening of this permit to include wasteloads allocated to the regulated small MS4 after issuance of permit coverage.

2. The measurable goals, schedules, strategies, and other best management practices (BMPs), required in an updated MS4 Program Plan to assure MS4 Program consistency with an approved TMDL for the pollutant identified in a WLA are, at a minimum:

a. The operator shall develop a list of its current ordinances and legal authorities, BMPs, policies, plans, procedures and contracts implemented as part of the MS4 Program that are applicable to reducing the pollutant identified in a WLA.

b. The operator shall evaluate existing ordinances and legal authorities, BMPs, policies, plans, procedures and contracts of the existing MS4 Program to determine the effectiveness of the MS4 Program in addressing reductions of the pollutant identified in the WLA. The evaluation shall identify any weakness or limitation in the MS4 Program to reduce the pollutant identified in the WLA in a manner consistent with the TMDL.

c. The operator shall develop a schedule to implement procedures and strategies that address the MS4 Program weaknesses such as timetables to update existing ordinances and legal authorities within two years, BMPs, policies, plans, procedures and contracts to ensure consistency with the assumptions of the TMDL WLA. When possible, source elimination shall be prioritized over load reduction.

d. The operator shall implement the schedule established in Section I B 2 c.

3. The operator shall integrate an awareness campaign into its existing public education and outreach program that promotes methods to eliminate and reduce discharges of the pollutant identified in the WLA. This may include additional employee training regarding the sources and methods to eliminate and minimize the discharge of the pollutant identified in the WLA.

4. The operator is encouraged to participate as a stakeholder in the development of any implementation plans developed to address the TMDL and shall incorporate applicable best management practices identified in the TMDL implementation plan in their MS4 Program Plan. The operator may choose to implement BMPs of equivalent design and efficiency instead of those identified in the TMDL implementation plan, provided that the rationale for any substituted BMP is provided and the substituted BMP is consistent with the TMDL and the WLA.

5. The operator shall develop and implement outfall reconnaissance procedures to identify potential sources of the pollutant identified in the WLA from anthropogenic activities. The operator shall conduct reconnaissance in accordance with the following:

a. Should the operator have 250 or more total outfalls discharging to the surface water identified in the WLA, the operator shall perform reconnaissance on a minimum of 250 outfalls for each WLA assigned at least once during the five-year

979 permit period and shall perform reconnaissance on a minimum of 35 outfalls per  
 980 year.  
 981 b. Should the operator have less than 250 total outfalls discharging to an identified  
 982 surface water, the operator shall perform reconnaissance on all outfalls during the  
 983 five-year permit period and shall annually conduct reconnaissance on a minimum of  
 984 15% of its known MS4 outfalls discharging to the surface water for which the WLA  
 985 has been assigned.  
 986 The department recommends that the operator review the publication entitled "Illicit  
 987 Discharge Detection and Elimination: A Guidance Manual for Program Development and  
 988 Technical Assessments," EPA cooperative agreement number X-82907801-0, for  
 989 guidance in implementing its outfall reconnaissance procedures. The operator shall  
 990 implement procedures designed to reduce the discharge of the pollutant in a manner  
 991 consistent with the TMDL. Physically interconnected MS4s may coordinate outfall  
 992 reconnaissance to meet the requirements of this subdivision.  
 993 6. The operator shall evaluate all properties owned or operated by the MS4 operator that  
 994 are not covered under a separate VPDES permit for potential sources of the pollutant  
 995 identified in the WLA. Within three years of the required date for updating the MS4  
 996 Program Plan, the operator shall conduct a site review and characterize the runoff for  
 997 those properties where it determines that the pollutant identified in the WLA is currently  
 998 stored, or has been transferred, transported or historically disposed of in a manner that  
 999 would expose it to precipitation in accordance with the following schedule:  
 1000 a. As a part of the site review, the operator shall collect a total of two samples from a  
 1001 representative outfall for each identified municipal property. One sample shall be  
 1002 taken during each of the following six-month periods: October through March, and  
 1003 April through September.  
 1004 b. All collected samples shall be grab samples and collected within the first 30  
 1005 minutes of a runoff producing event that is greater than 0.1 inches in magnitude and  
 1006 that occurs at least 72 hours from the previous measurable (greater than 0.1 inch  
 1007 rainfall) storm event. The required 72-hour storm event interval is waived where the  
 1008 preceding measurable storm event did not result in a measurable discharge from the  
 1009 property. The required 72-hour storm event interval may also be waived where the  
 1010 operator documents that less than a 72-hour interval is representative for local storm  
 1011 events during the season when sampling is being conducted. Analytical methods  
 1012 shall be conducted according to procedures approved under 40 CFR Part 136 or  
 1013 alternative methods approved by the Environmental Protection Agency (EPA).  
 1014 Where an approved 40 CFR Part 136 method does not exist, the operator must use  
 1015 a method consistent with the TMDL.  
 1016 c. For properties where there is found to be a discharge of the pollutant identified in  
 1017 the WLA, the operator shall develop and implement a schedule to minimize the  
 1018 discharge of the pollutant identified in the WLA in a manner consistent with the  
 1019 approved TMDL.  
 1020 7. The operator shall conduct an annual characterization that estimates the volume of  
 1021 stormwater discharged, in cubic feet, and the quantity of pollutant identified in the WLA,  
 1022 in a unit consistent with the WLA, discharged by the regulated small MS4.  
 1023 8. As part of the annual evaluation, the operator shall update the MS4 Program Plan to  
 1024 include any new information regarding the TMDL in order to ensure consistency with the  
 1025 TMDL.  
 1026 9. Along with reporting requirements in Section II E, the operator shall include the  
 1027 following with each annual report:

a. Copies of any updates to the MS4 Program Plan completed during the reporting cycle and any new information regarding the TMDL in order to evaluate its ability to assure the consistency of its discharge with the assumptions of the TMDL WLA.

b. The estimate of the volume of stormwater discharged, in cubic feet, and the quantity of pollutant identified in the WLA, in a unit consistent with the WLA discharged by the regulated small MS4 for each WLA.

## SECTION II

### MUNICIPAL SEPARATE STORM SEWER SYSTEM MANAGEMENT PROGRAM

A. The operator of a regulated small MS4 must develop, implement, and enforce a MS4 Program designed to reduce the discharge of pollutants from the regulated small MS4 to the maximum extent practicable (MEP), to protect water quality, to ensure compliance by the operator with water quality standards, and to satisfy the appropriate water quality requirements of the Clean Water Act and regulations. The MS4 Program must include the minimum control measures described in paragraph B of this section. Implementation of best management practices consistent with the provisions of an iterative MS4 Program required pursuant to this section constitutes compliance with the standard of reducing pollutants to the "maximum extent practicable", protects water quality in the absence of a TMDL wasteload allocation, ensures compliance by the operator with water quality standards, and satisfies the appropriate water quality requirements of the Clean Water Act and regulations in the absence of a TMDL WLA. The requirements of this section and those special conditions set out in Section I B also apply where a WLA is applicable.

No later than January 9, 2009, the operator shall review its existing MS4 Program Plan and submit a schedule to develop and implement programs to meet the conditions established by this permit. For operators of regulated small MS4s that are applying for initial coverage under this general permit, the schedule to develop and implement the MS4 Program Plan shall be submitted with the completed registration statement.

#### B. Minimum control measures.

1. Public education and outreach on stormwater impacts. Implement a public education program to distribute educational materials to the community or conduct equivalent outreach activities about the impacts of stormwater discharges on water bodies and the steps that the public can take to reduce pollutants in stormwater runoff. The department recommends that the operator review the Environmental Protection Agency (EPA) publication entitled "Getting in Step: A Guide for Conducting Watershed Outreach Campaigns," publication number EPA 841-B-03-002, for guidance in developing a public education program.

The operator shall identify, schedule, implement, evaluate and modify, as necessary, BMPs to meet the following public education and outreach measurable goals:

a. Increased individual and household knowledge about the steps that they can take to reduce stormwater pollution, placing priority on reducing impacts to impaired waters and other local water pollution concerns;

b. Increased public employee, business, and general public knowledge of hazards associated with illegal discharges and improper disposal of waste, including pertinent legal implications;

c. Increased individual and group involvement in local water quality improvement initiatives including the promotion of local restoration and clean up projects, programs, groups, meetings and other opportunities for public involvement;

d. Diverse strategies to target audiences specific to the area serviced by the regulated small MS4;

1076 e. Improved outreach program to address viewpoints and concerns of target  
 1077 audiences, with a recommended focus on minorities, disadvantaged audiences and  
 1078 minors; and

1079 f. Targeted strategies towards local groups of commercial, industrial, and institutional  
 1080 entities likely to have significant stormwater impacts.

1081 2. Public involvement/participation.

1082 The operator shall comply with applicable state, tribal, and local public notice  
 1083 requirements and identify, schedule, implement, evaluate and modify, as necessary,  
 1084 BMPs to meet the following public involvement/participation measurable goals:

1085 a. Promote the availability of the operator's MS4 Program Plan and any modifications  
 1086 for public review and comment. Public notice shall be given by any method  
 1087 reasonably calculated to give actual notice of the action in question to the persons  
 1088 potentially affected by it, including press releases or any other forum or medium to  
 1089 elicit public participation. Provide access to or copies of the MS4 Program Plan or  
 1090 any modifications ] upon request of interested parties in compliance with all  
 1091 applicable freedom of information regulations;

1092 b. Provide access to or copies of the annual report upon request of interested parties  
 1093 in compliance with all applicable freedom of information regulations; and

1094 c. Participate, through promotion, sponsorship, or other involvement, in local  
 1095 activities aimed at increasing public participation to reduce stormwater pollutant  
 1096 loads and improve water quality.

1097 3. Illicit discharge detection and elimination. The MS4 Program shall:

1098 a. Develop, implement and enforce a program to detect and eliminate illicit  
 1099 discharges, as defined at 4VAC50-60-10, into the regulated small MS4. The  
 1100 department recommends that the operator review the publication entitled "Illicit  
 1101 Discharge Detection and Elimination: A Guidance Manual for Program Development  
 1102 and Technical Assessments," Environmental Protection Agency (EPA) cooperative  
 1103 agreement number X-82907801-0, for guidance in implementing and evaluating its  
 1104 illicit discharge detection and elimination program;

1105 b. Develop, if not already completed, and maintain, an updated storm sewer system  
 1106 map, showing the location of all known outfalls of the regulated small MS4 including  
 1107 those physically interconnected to a regulated MS4, the associated surface waters  
 1108 and HUCs, and the names and locations of all impaired surface waters that receive  
 1109 discharges from those outfalls. The operator shall also estimate the acreage within  
 1110 the regulated small MS4 discharging to each HUC and impaired water;

1111 c. To the extent allowable under state, tribal or local law or other regulatory  
 1112 mechanism, effectively prohibit, through ordinance, or other regulatory mechanism,  
 1113 nonstormwater discharges into the storm sewer system and implement appropriate  
 1114 enforcement procedures and actions;

1115 The following categories of nonstormwater discharges or flows (i.e., illicit discharges)  
 1116 must be addressed only if they are identified by the operator, the State Water Control  
 1117 Board, or by the board as significant contributors of pollutants to the regulated small  
 1118 MS4: water line flushing, landscape irrigation, diverted stream flows, rising ground  
 1119 waters, uncontaminated ground water infiltration, uncontaminated pumped ground  
 1120 water, discharges from potable water sources, foundation drains, air conditioning  
 1121 condensation, irrigation water, springs, water from crawl space pumps, footing  
 1122 drains, lawn watering, individual residential car washing, flows from riparian habitats  
 1123 and wetlands, dechlorinated swimming pool discharges, street wash water,



1124 discharges or flows from fire fighting activities, and flows that have been identified in  
 1125 writing by the Department of Environmental Quality as de minimis discharges that  
 1126 are not significant sources of pollutants to state waters and not requiring a VPDES  
 1127 permit;

1128 d. Develop and implement procedures to detect and address nonstormwater  
 1129 discharges, including illegal dumping, to the regulated small MS4;

1130 e. Prevent or minimize to the maximum extent practicable, the discharge of  
 1131 hazardous substances or oil in the stormwater discharge(s) from the regulated small  
 1132 MS4. In addition, the MS4 Program must be reviewed to identify measures to  
 1133 prevent the recurrence of such releases and to respond to such releases, and the  
 1134 program must be modified where appropriate. This permit does not relieve the  
 1135 operator or the responsible part(ies) of any reporting requirements of 40 CFR Part  
 1136 110 (2001), 40 CFR Part 117 (2001) and 40 CFR Part 302 (2001) or § 62.1-44.34:19  
 1137 of the Code of Virginia;

1138 f. Track the number of illicit discharges identified, provide narrative on how they were  
 1139 controlled or eliminated, and submit the information in accordance with Section II E  
 1140 3; and

1141 g. Notify, in writing, any downstream regulated MS4 to which the small regulated  
 1142 MS4 is physically interconnected of the small regulated MS4's connection to that  
 1143 system.

1144 4. Construction site stormwater runoff control.

1145 a. The operator shall develop, implement, and enforce procedures to reduce  
 1146 pollutants in any stormwater runoff to the regulated small MS4 from construction  
 1147 activities that result in a land disturbance of greater than or equal to one acre or  
 1148 equal to or greater than 2,500 square feet in all areas of the jurisdictions designated  
 1149 as subject to the Chesapeake Bay Preservation Area Designation and Management  
 1150 Regulations adopted pursuant to the Chesapeake Bay Preservation Act. Additionally,  
 1151 reduction of stormwater discharges from construction activity disturbing less than  
 1152 one acre must be included in the program if that construction activity is part of a  
 1153 larger common plan of development or sale that would disturb one acre or more.

1154 The procedures must include the development and implementation of, at a minimum:

1155 (1) An ordinance or other mechanism to require erosion and sediment controls, as  
 1156 well as sanctions to ensure compliance with the Erosion and Sediment Control Law  
 1157 and attendant regulations, to the extent allowable under state, tribal, or local law.  
 1158 Such ordinances and other mechanisms shall be updated as necessary;

1159 (2) Requirements for construction site owners and operators to implement  
 1160 appropriate erosion and sediment control best management practices as part of an  
 1161 erosion and sediment control plan that is consistent with the Erosion and Sediment  
 1162 Control Law and attendant regulations and other applicable requirements of state,  
 1163 tribal, or local law. Where determined appropriate by the operator, the operator shall  
 1164 encourage the use of structural and nonstructural design techniques to create a  
 1165 design that has the goal of maintaining or replicating predevelopment runoff  
 1166 characteristics and site hydrology;

1167 (3) Requirements for construction site owners and operators to secure authorization  
 1168 to discharge stormwater from construction activities under a VSMP permit for  
 1169 construction activities that result in a land disturbance of greater than or equal to one  
 1170 acre or equal to or greater than 2,500 square feet in all areas of the jurisdictions  
 1171 designated as subject to the Chesapeake Bay Preservation Area Designation and

1172 Management Regulations adopted pursuant to the Chesapeake Bay Preservation  
 1173 Act. Additionally, stormwater discharges from construction activity disturbing less  
 1174 than one acre must secure authorization to discharge under a VSMP permit if that  
 1175 construction activity is part of a larger common plan of development or sale that  
 1176 would disturb one acre or more;

1177 (4) Procedures for receipt and consideration of information submitted by the public;  
 1178 and

1179 (5) Procedures for site inspection and enforcement of control measures.

1180 b. The operator shall ensure that plan reviewers, inspectors, program administrators  
 1181 and construction site owners and operators obtain the appropriate certifications as  
 1182 required under the Erosion and Sediment Control Law;

1183 c. The operator shall track regulated land-disturbing activities and submit the  
 1184 following information in accordance with Section II E 3:

1185 (1) Total number of regulated land-disturbing activities; and  
 1186 (2) Total disturbed acreage.

1187 5. Post-construction stormwater management in new development and redevelopment.

1188 a. The operator shall develop, implement, and enforce procedures to address  
 1189 stormwater runoff to the regulated small MS4 from new development and  
 1190 redevelopment projects that disturb greater than or equal to one acre or equal to or  
 1191 greater than 2,500 square feet in all areas of the jurisdictions designated as subject  
 1192 to the Chesapeake Bay Preservation Area Designation and Management  
 1193 Regulations adopted pursuant to the Chesapeake Bay Preservation Act, including  
 1194 projects less than one acre that are part of a larger common plan of development or  
 1195 sale, that discharge into the regulated small MS4. The procedures must ensure that  
 1196 controls are in place that would prevent or minimize water quality and quantity  
 1197 impacts in accordance with this section.

1198 b. The operator shall:

1199 (1) Develop and implement strategies which include a combination of structural  
 1200 and/or nonstructural best management practices (BMPs) appropriate for the  
 1201 operator's community. Where determined appropriate by the operator, the operator  
 1202 shall encourage the use of structural and nonstructural design techniques to create a  
 1203 design that has the goal of maintaining or replicating predevelopment runoff  
 1204 characteristics and site hydrology;

1205 (2) Use an ordinance, regulation, or other mechanism to address post-construction  
 1206 runoff from new development and redevelopment projects to ensure compliance with  
 1207 the Virginia Stormwater Management Act (§ 10.1-603.1 et seq. of the Code of  
 1208 Virginia) and attendant regulations, and to the extent allowable under state, tribal or  
 1209 local law. Such ordinances and other mechanisms shall be updated as necessary;

1210 (3) Require construction site owners and operators to secure authorization to  
 1211 discharge stormwater from construction activities under a VSMP permit for new  
 1212 development and redevelopment projects that result in a land disturbance of greater  
 1213 than or equal to one acre or equal to or greater than 2,500 square feet in all areas of  
 1214 the jurisdictions designated as subject to the Chesapeake Bay Preservation Area  
 1215 Designation and Management Regulations adopted pursuant to the Chesapeake  
 1216 Bay Preservation Act. Additionally, stormwater discharges from construction activity  
 1217 disturbing less than one acre must secure authorization to discharge under a VSMP  
 1218 permit if that construction activity is part of a larger common plan of development or  
 1219 sale that would disturb one acre or more;

1220 (4) Require adequate long-term operation and maintenance by the owner of  
 1221 structural stormwater management facilities through requiring the owner to develop a  
 1222 recorded inspection schedule and maintenance agreement to the extent allowable  
 1223 under state, tribal or local law or other legal mechanism. The operator shall  
 1224 additionally develop, through the maintenance agreement or other method, a  
 1225 mechanism for enforcement of maintenance responsibilities by the operator if they  
 1226 are neglected by the owner;  
 1227 (5) Conduct site inspection and enforcement measures consistent with the Virginia  
 1228 Stormwater Management Act and attendant regulations; and  
 1229 (6) Track all known permanent stormwater management facilities that discharge to  
 1230 the regulated small MS4 and submit the following information in accordance with  
 1231 Section II E 3:  
 1232 (a) Type of structural stormwater management facility installed as defined in the  
 1233 Virginia Stormwater Management Handbook;  
 1234 (b) Geographic location (HUC);  
 1235 (c) Where applicable, the impaired surface water that the stormwater management  
 1236 facility is discharging into; and  
 1237 (d) Number of acres treated.  
 1238 6. Pollution prevention/good housekeeping for municipal operations. Develop and  
 1239 implement an operation and maintenance program consistent with the MS4 Program  
 1240 Plan that includes a training component and has the ultimate goal of preventing or  
 1241 reducing pollutant runoff from municipal operations. Using training materials including  
 1242 those available from EPA, state, tribe, or other organizations, the program shall include  
 1243 employee training to prevent and reduce stormwater pollution from activities such as  
 1244 park and open space maintenance, fleet and building maintenance, new construction  
 1245 and land disturbances, and MS4 maintenance. The operator is encouraged to review the  
 1246 Environmental Protection Agency's (EPA's) National Menu of Stormwater Best  
 1247 Management Practices for ideas and strategies to incorporate into its program. The  
 1248 menu can be accessed at  
 1249 <http://cfpub.epa.gov/npdes/stormwater/menuofbmps/index.cfm>.  
 1250 The operator shall identify, implement, evaluate and modify, as necessary, BMPs to  
 1251 meet the following pollution prevention/good housekeeping for municipal operations  
 1252 measurable goals:  
 1253 a. Operation and maintenance programs including activities, schedules, and  
 1254 inspection procedures shall include provisions and controls to reduce pollutant  
 1255 discharges into the regulated small MS4 and receiving surface waters;  
 1256 b. Illicit discharges shall be eliminated from storage yards, fleet or maintenance  
 1257 shops, outdoor storage areas, rest areas, waste transfer stations, and other  
 1258 municipal facilities;  
 1259 c. Waste materials shall be disposed of properly;  
 1260 d. Materials that are soluble or erodible shall be protected from exposure to  
 1261 precipitation;  
 1262 e. Materials, including but not limited to fertilizers and pesticides, that have the  
 1263 potential to pollute receiving surface waters shall be applied according to  
 1264 manufacturer's recommendations; and

1265 f. For state agencies with lands where nutrients are applied, nutrient management  
1266 plans shall be developed and implemented in accordance with the requirements of §  
1267 10.1-104.4 of the Code of Virginia.

1268 C. If an existing program requires the implementation of one or more of the minimum control  
1269 measures of Section II B, the operator, with the approval of the board, may follow that program's  
1270 requirements rather than the requirements of Section II B. A program that may be considered  
1271 includes, but is not limited to, a local, state or tribal program that imposes, at a minimum, the  
1272 relevant requirements of Section II B.

1273 The operator's MS4 Program Plan shall identify and fully describe any program that will be  
1274 used to satisfy one or more of the minimum control measures of Section II B.

1275 If the program the operator is using requires the approval of a third party, the program must  
1276 be fully approved by the third party, or the operator must be working towards getting full  
1277 approval. Documentation of the program's approval status, or the progress towards achieving  
1278 full approval, must be included in the annual report required by Section II E 3.

1279 D. The operator may rely on another entity to satisfy the VSMP permit obligations to  
1280 implement a minimum control measure if: (i) the other entity, in fact, implements the control  
1281 measure; (ii) the particular control measure, or component thereof, is at least as stringent as the  
1282 corresponding VSMP permit requirement; and (iii) the other entity agrees to implement the  
1283 control measure on behalf of the operator. The agreement between the parties must be  
1284 documented in writing and retained by the operator with the MS4 Program Plan for the duration  
1285 of this permit.

1286 In the annual reports that must be submitted under Section II E 3, the operator must specify  
1287 that another entity is being relied on to satisfy some of the permit obligations.

1288 If the operator is relying on another governmental entity regulated under 4VAC50-60-380 to  
1289 satisfy all of the permit obligations, including the obligation to file periodic reports required by  
1290 Section II E 3, the operator must note that fact in the registration statement, but is not required  
1291 to file the periodic reports.

1292 The operator remains responsible for compliance with the permit obligations if the other  
1293 entity fails to implement the control measure (or component thereof).

1294 E. Evaluation and assessment.

1295 1. Evaluation.

1296 a. The operator must annually evaluate:

1297 (1) Program compliance;

1298 (2) The appropriateness of the identified BMPs (as part of this evaluation, the  
1299 operator shall evaluate the effectiveness of BMPs in addressing discharges into  
1300 waters that are identified as impaired in the 2006 305(b)/303(d) Water Quality  
1301 Assessment Integrated Report); and

1302 (3) Progress towards achieving the identified measurable goals.

1303 b. The operator must evaluate its MS4 Program once during the permit cycle using  
1304 the "Municipal Stormwater Program Evaluation Guidance," Environmental Protection  
1305 Agency EPA-833-R-07-003. Such information shall be utilized when reapplying for  
1306 permit coverage. Results of this evaluation shall be kept on file and made available  
1307 during audits and inspections.

1308 2. Recordkeeping. The operator must keep records required by the NPDES permit for at  
1309 least three years. These records must be submitted to the NPDES permitting authority  
1310 only upon specific request. The operator must make the records, including a description

of the stormwater management program, available to the public at reasonable times during regular business hours.

3. Annual reports. The operator must submit an annual report for the reporting period of July 1 through June 30 to the department by the following October 1. The reports shall include:

a. Background Information.

(1) The name and permit number of the program submitting the annual report;

(2) The annual report permit year;

(3) Modifications to any operator's department's roles and responsibilities;

(4) Number of new MS4 outfalls and associated acreage by HUC added during the permit year; and

(5) Signed certification.

b. The status of compliance with permit conditions, an assessment of the appropriateness of the identified best management practices and progress towards achieving the identified measurable goals for each of the minimum control measures;

c. Results of information collected and analyzed, including monitoring data, if any, during the reporting period;

d. A summary of the stormwater activities the operator plans to undertake during the next reporting cycle;

e. A change in any identified best management practices or measurable goals for any of the minimum control measures including steps to be taken to address any deficiencies;

f. Notice that the operator is relying on another government entity to satisfy some of the permit obligations (if applicable);

g. The approval status of any programs pursuant to Section II C (if appropriate), or the progress towards achieving full approval of these programs;

h. Information required pursuant to Section I B 9;

i. The number of illicit discharges identified and the narrative on how they were controlled or eliminated pursuant to Section II B 3 f;

j. Regulated land-disturbing activities data tracked under Section II 4 c;

k. All known permanent stormwater management facility data tracked under Section II B 5 b (6) submitted in a database format to be prescribed by the department. Upon filing of this list, subsequent reports shall only include those new stormwater management facilities that have been brought online;

l. A list of any new or terminated signed agreements between the operator and any applicable third parties where the operator has entered into an agreement in order to implement minimum control measures or portions of minimum control measures; and

m. Copies of any written comments received during a public comment period regarding the MS4 Program Plan or any modifications.

F. Program Plan modifications. The board may require modifications to the MS4 Program Plan as needed to address adverse impacts on receiving surface water quality caused, or contributed to, by discharges from the regulated small MS4. Modifications required by the board shall be made in writing and set forth the time schedule to develop and implement the modification. The operator may propose alternative program modifications and time schedules to meet the objective of the required modification. The board retains the authority to require any modifications it determines are necessary.

SECTION III  
CONDITIONS APPLICABLE TO ALL VSMP PERMITS

A. Monitoring.

1. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.
2. Monitoring shall be conducted according to procedures approved under 40 CFR Part 136 (2001) or alternative methods approved by the U.S. Environmental Protection Agency, unless other procedures have been specified in this permit.
3. The operator shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals that will insure accuracy of measurements.

B. Records.

1. Monitoring records/reports shall include:

- a. The date, exact place, and time of sampling or measurements;
- b. The individual(s) who performed the sampling or measurements;
- c. The date(s) and time(s) analyses were performed;
- d. The individual(s) who performed the analyses;
- e. The analytical techniques or methods used; and
- f. The results of such analyses.

2. The operator shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the registration statement for this permit, for a period of at least three years from the date of the sample, measurement, report or request for coverage. This period of retention shall be extended automatically during the course of any unresolved litigation regarding the regulated activity or regarding control standards applicable to the operator, or as requested by the board.

C. Reporting monitoring results.

1. The operator shall submit the results of the monitoring required by this permit with the annual report unless another reporting schedule is specified elsewhere in this permit.
2. Monitoring results shall be reported on a Discharge Monitoring Report (DMR); on forms provided, approved or specified by the department; or in any format provided the date, location, parameter, method, and result of the monitoring activity are included.
3. If the operator monitors any pollutant specifically addressed by this permit more frequently than required by this permit using test procedures approved under 40 CFR Part 136 (2001) or using other test procedures approved by the U.S. Environmental Protection Agency or using procedures specified in this permit, the results of this monitoring shall be included in the calculation and reporting of the data submitted in the DMR or reporting form specified by the department.
4. Calculations for all limitations that require averaging of measurements shall utilize an arithmetic mean unless otherwise specified in this permit.

D. Duty to provide information. The operator shall furnish to the department, within a reasonable time, any information that the board may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The board may require the operator to furnish, upon request, such plans, specifications, and other pertinent information as may be necessary to determine the effect of

the wastes from his discharge on the quality of surface waters, or such other information as may be necessary to accomplish the purposes of the CWA and Virginia Stormwater Management Act. The operator shall also furnish to the department upon request, copies of records required to be kept by this permit.

E. Compliance schedule reports. Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than 14 days following each schedule date.

F. Unauthorized stormwater discharges.

]

Pursuant to § 10.1-603.2:2 A of the Code of Virginia, except in compliance with a permit issued by the board, it shall be unlawful to cause a stormwater discharge from a MS4.

G. Reports of unauthorized discharges. Any operator of a regulated small MS4 who discharges or causes or allows a discharge of sewage, industrial waste, other wastes or any noxious or deleterious substance or a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under either 40 CFR Part 110 (2002), 40 CFR Part 117 (2002) or 40 CFR Part 302 (2002) that occurs during a 24-hour period into or upon surface waters; or who discharges or causes or allows a discharge that may reasonably be expected to enter surface waters, shall notify the Department of Environmental Quality of the discharge immediately upon discovery of the discharge, but in no case later than within 24 hours after said discovery. A written report of the unauthorized discharge shall be submitted to the Department of Environmental Quality and the Department of Conservation and Recreation, within five days of discovery of the discharge. The written report shall contain:

1. A description of the nature and location of the discharge;
2. The cause of the discharge;
3. The date on which the discharge occurred;
4. The length of time that the discharge continued;
5. The volume of the discharge;
6. If the discharge is continuing, how long it is expected to continue;
7. If the discharge is continuing, what the expected total volume of the discharge will be; and
8. Any steps planned or taken to reduce, eliminate and prevent a recurrence of the present discharge or any future discharges not authorized by this permit.

Discharges reportable to the Department of Environmental Quality and the Department of Conservation and Recreation under the immediate reporting requirements of other regulations are exempted from this requirement.

H. Reports of unusual or extraordinary discharges. If any unusual or extraordinary discharge including a "bypass" or "upset," as defined herein, should occur from a facility and the discharge enters or could be expected to enter surface waters, the operator shall promptly notify, in no case later than within 24 hours, the Department of Environmental Quality and the Department of Conservation and Recreation by telephone after the discovery of the discharge. This notification shall provide all available details of the incident, including any adverse effects on aquatic life and the known number of fish killed. The operator shall reduce the report to writing and shall submit it to the Department of Environmental Quality and the Department of Conservation and Recreation within five days of discovery of the discharge in accordance with Section III I 2. Unusual and extraordinary discharges include but are not limited to any discharge resulting from:

1449 1. Unusual spillage of materials resulting directly or indirectly from processing  
1450 operations;  
1451 2. Breakdown of processing or accessory equipment;  
1452 3. Failure or taking out of service some or all of the facilities; and  
1453 4. Flooding or other acts of nature.

1454 I. Reports of noncompliance. The operator shall report any noncompliance which may  
1455 adversely affect surface waters or may endanger public health.

1456 1. An oral report shall be provided within 24 hours to the Department of Environmental  
1457 Quality and the Department of Conservation and Recreation from the time the operator  
1458 becomes aware of the circumstances. The following shall be included as information  
1459 which shall be reported within 24 hours under this paragraph:

1460 a. Any unanticipated bypass; and  
1461 b. Any upset which causes a discharge to surface waters.

1462 2. A written report shall be submitted within five days and shall contain:

1463 a. A description of the noncompliance and its cause;  
1464 b. The period of noncompliance, including exact dates and times, and if the  
1465 noncompliance has not been corrected, the anticipated time it is expected to  
1466 continue; and  
1467 c. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the  
1468 noncompliance.

1469 The board or its designee may waive the written report on a case-by-case basis for  
1470 reports of noncompliance under Section III I if the oral report has been received  
1471 within 24 hours and no adverse impact on surface waters has been reported.

1472 3. The operator shall report all instances of noncompliance not reported under Sections  
1473 III I 1 or 2, in writing, at the time the next monitoring reports are submitted. The reports  
1474 shall contain the information listed in Section III I 2.

1475 NOTE: The immediate (within 24 hours) reports required to be provided to the  
1476 Department of Environmental Quality in Sections III G, H and I may be made to the  
1477 appropriate Department of Environmental Quality's Regional Office Pollution Response  
1478 Program as found at <http://www.deq.virginia.gov/prep/homepage.html#>. Reports may be  
1479 made by telephone or by fax. For reports outside normal working hours, leave a  
1480 message and this shall fulfill the immediate reporting requirement. For emergencies, the  
1481 Virginia Department of Emergency Services maintains a 24-hour telephone service at 1-  
1482 800-468-8892.

1483 4. Where the operator becomes aware of a failure to submit any relevant facts, or  
1484 submittal of incorrect information in any report to the department or the Department of  
1485 Environmental Quality, it shall promptly submit such facts or correct information.

1486 J. Notice of planned changes.

1487 1. The operator shall give notice to the department as soon as possible of any planned  
1488 physical alterations or additions to the permitted facility. Notice is required only when:

1489 a. The operator plans an alteration or addition to any building, structure, facility, or  
1490 installation from which there is or may be a discharge of pollutants, the construction  
1491 of which commenced:

1492 (1) After promulgation of standards of performance under § 306 of the Clean Water  
1493 Act that are applicable to such source; or



1494 (2) After proposal of standards of performance in accordance with § 306 of the Clean  
1495 Water Act that are applicable to such source, but only if the standards are  
1496 promulgated in accordance with § 306 within 120 days of their proposal;

1497 b. The operator plans alteration or addition that would significantly change the nature  
1498 or increase the quantity of pollutants discharged. This notification applies to  
1499 pollutants that are not subject to effluent limitations in this permit; or

1500 2. The operator shall give advance notice to the department of any planned changes in  
1501 the permitted facility or activity; which may result in noncompliance with permit  
1502 requirements.

1503 K. Signatory requirements.

1504 1. Registration statement. All registration statements shall be signed as follows:

1505 a. For a corporation: by a responsible corporate officer. For the purpose of this  
1506 subsection, a responsible corporate officer means: (i) A president, secretary,  
1507 treasurer, or vice-president of the corporation in charge of a principal business  
1508 function, or any other person who performs similar policy- or decision-making  
1509 functions for the corporation, or (ii) the manager of one or more manufacturing,  
1510 production, or operating facilities, provided the manager is authorized to make  
1511 management decisions which govern the operation of the regulated facility including  
1512 having the explicit or implicit duty of making major capital investment  
1513 recommendations, and initiating and directing other comprehensive measures to  
1514 assure long term compliance with environmental laws and regulations; the manager  
1515 can ensure that the necessary systems are established or actions taken to gather  
1516 complete and accurate information for permit application requirements; and where  
1517 authority to sign documents has been assigned or delegated to the manager in  
1518 accordance with corporate procedures;

1519 b. For a partnership or sole proprietorship: by a general partner or the proprietor,  
1520 respectively; or

1521 c. For a municipality, state, federal, or other public agency: By either a principal  
1522 executive officer or ranking elected official. For purposes of this subsection, a  
1523 principal executive officer of a public agency includes:

1524 (1) The chief executive officer of the agency, or

1525 (2) A senior executive officer having responsibility for the overall operations of a  
1526 principal geographic unit of the agency.

1527 2. Reports, etc. All reports required by permits, and other information requested by the  
1528 board shall be signed by a person described in Section III K 1, or by a duly authorized  
1529 representative of that person. A person is a duly authorized representative only if:

1530 a. The authorization is made in writing by a person described in Section III K 1;

1531 b. The authorization specifies either an individual or a position having responsibility  
1532 for the overall operation of the regulated facility or activity such as the position of  
1533 plant manager, operator of a well or a well field, superintendent, position of  
1534 equivalent responsibility, or an individual or position having overall responsibility for  
1535 environmental matters for the operator. (A duly authorized representative may thus  
1536 be either a named individual or any individual occupying a named position.); and

1537 c. The written authorization is submitted to the department.

1538 3. Changes to authorization. If an authorization under Section III K 2 is no longer  
1539 accurate because a different individual or position has responsibility for the overall  
1540 operation of the facility, a new authorization satisfying the requirements of Section III K 2

shall be submitted to the department prior to or together with any reports, or information to be signed by an authorized representative.

4. Certification. Any person signing a document under Sections III K 1 or 2 shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

L. Duty to comply. The operator shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Virginia Stormwater Management Act and the Clean Water Act, except that noncompliance with certain provisions of this permit may constitute a violation of the Virginia Stormwater Management Act but not the Clean Water Act. Permit noncompliance is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

The operator shall comply with effluent standards or prohibitions established under § 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions or standards for sewage sludge use or disposal, even if this permit has not yet been modified to incorporate the requirement.

M. Duty to reapply. If the operator wishes to continue an activity regulated by this permit after the expiration date of this permit, the operator shall submit a new registration statement at least 90 days before the expiration date of the existing permit, unless permission for a later date has been granted by the board. The board shall not grant permission for registration statements to be submitted later than the expiration date of the existing permit.

N. Effect of a permit. This permit does not convey any property rights in either real or personal property or any exclusive privileges, nor does it authorize any injury to private property or invasion of personal rights, or any infringement of federal, state or local law or regulations.

O. State law. Nothing in this permit shall be construed to preclude the institution of any legal action under, or relieve the operator from any responsibilities, liabilities, or penalties established pursuant to any other state law or regulation or under authority preserved by § 510 of the Clean Water Act. Except as provided in permit conditions on "bypassing" (Section III U), and "upset" (Section III V) nothing in this permit shall be construed to relieve the operator from civil and criminal penalties for noncompliance.

P. Oil and hazardous substance liability. Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the operator from any responsibilities, liabilities, or penalties to which the operator is or may be subject under §§ 62.1-44.34:14 through 62.1-44.34:23 of the State Water Control Law or § 311 of the Clean Water Act.

Q. Proper operation and maintenance. The operator shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances), which are installed or used by the operator to achieve compliance with the conditions of this permit. Proper operation and maintenance also includes effective plant performance, adequate funding, adequate staffing, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, which are installed by the operator only when the operation is necessary to achieve compliance with the conditions of this permit.

R. Disposal of solids or sludges. Solids, sludges or other pollutants removed in the course of treatment or management of pollutants shall be disposed of in a manner so as to prevent any pollutant from such materials from entering surface waters.

S. Duty to mitigate. The operator shall take all reasonable steps to minimize or prevent any discharge in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

T. Need to halt or reduce activity not a defense. It shall not be a defense for an operator in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

#### U. Bypass.

1. "Bypass," as defined in 4VAC50-60-10, means the intentional diversion of waste streams from any portion of a treatment facility. The operator may allow any bypass to occur that does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of Sections III U 2 and U 3.

##### 2. Notice.

a. Anticipated bypass. If the operator knows in advance of the need for a bypass, prior notice shall be submitted, if possible at least 10 days before the date of the bypass.

b. Unanticipated bypass. The operator shall submit notice of an unanticipated bypass as required in Section III I.

##### 3. Prohibition of bypass.

a. Bypass is prohibited, and the board or its designee may take enforcement action against an operator for bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

(3) The operator submitted notices as required under Section III U 2.

b. The board or its designee may approve an anticipated bypass, after considering its adverse effects, if the board or its designee determines that it will meet the three conditions listed above in Section III U 3 a.

#### V. Upset.

1. An upset, as defined in 4VAC50-60-10, constitutes an affirmative defense to an action brought for noncompliance with technology based permit effluent limitations if the requirements of Section III V 2 are met. A determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is not a final administrative action subject to judicial review.

2. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

1634 3. An operator who wishes to establish the affirmative defense of upset shall  
1635 demonstrate, through properly signed, contemporaneous operating logs, or other  
1636 relevant evidence that:

- 1637 a. An upset occurred and that the operator can identify the cause(s) of the upset;
- 1638 b. The permitted facility was at the time being properly operated;
- 1639 c. The operator submitted notice of the upset as required in Section III I; and
- 1640 d. The operator complied with any remedial measures required under Section III S.

1641 4. In any enforcement proceeding the operator seeking to establish the occurrence of an  
1642 upset has the burden of proof.

1643 W. Inspection and entry. The operator shall allow the department as the board's designee,  
1644 or an authorized representative (including an authorized contractor acting as a representative of  
1645 the administrator), upon presentation of credentials and other documents as may be required by  
1646 law, to:

- 1647 1. Enter upon the operator's premises where a regulated facility or activity is located or
- 1648 conducted, or where records must be kept under the conditions of this permit;
- 1649 2. Have access to and copy, at reasonable times, any records that must be kept under
- 1650 the conditions of this permit;
- 1651 3. Inspect at reasonable times any facilities, equipment (including monitoring and control
- 1652 equipment), practices, or operations regulated or required under this permit; and
- 1653 4. Sample or monitor at reasonable times, for the purposes of assuring permit
- 1654 compliance or as otherwise authorized by the Clean Water Act and the Virginia
- 1655 Stormwater Management Act, any substances or parameters at any location.

1656 For purposes of this subsection, the time for inspection shall be deemed reasonable  
1657 during regular business hours, and whenever the facility is discharging. Nothing  
1658 contained herein shall make an inspection unreasonable during an emergency.

1659 X. Permit actions. Permits may be modified, revoked and reissued, or terminated for cause.  
1660 The filing of a request by the operator for a permit modification, revocation and reissuance, or  
1661 termination, or a notification of planned changes or anticipated noncompliance does not stay  
1662 any permit condition.

1663 Y. Transfer of permits.

1664 1. Permits are not transferable to any person except after notice to the department.  
1665 Except as provided in Section III Y 2, a permit may be transferred by the operator to a  
1666 new owner or operator only if the permit has been modified or revoked and reissued, or  
1667 a minor modification made, to identify the new operator and incorporate such other  
1668 requirements as may be necessary under the Virginia Stormwater Management Act and  
1669 the Clean Water Act.

1670 2. As an alternative to transfers under Section III Y 1, this permit may be automatically  
1671 transferred to a new operator if:

- 1672 a. The current operator notifies the department at least two days in advance of the
- 1673 proposed transfer of the title to the facility or property;
- 1674 b. The notice includes a written agreement between the existing and new operators
- 1675 containing a specific date for transfer of permit responsibility, coverage, and liability
- 1676 between them; and
- 1677 c. The board does not notify the existing operator and the proposed new operator of
- 1678 its intent to modify or revoke and reissue the permit. If this notice is not received, the

1679 transfer is effective on the date specified in the agreement mentioned in Section III Y  
1680 2 b.

1681 Z. Severability. The provisions of this permit are severable, and if any provision of this permit  
1682 or the application of any provision of this permit to any circumstance, is held invalid, the  
1683 application of such provision to other circumstances, and the remainder of this permit, shall not  
1684 be affected thereby.

1685

1686 FORMS (4VAC50-60)

1687 Application Form 1-General Information, Consolidated Permits Program, EPA Form 3510-1,  
1688 DCR 199-149 (August 1990).

1689 Department of Conservation and Recreation Permit Fee Form, DCR 199-145 (10/09).

1690 VSMP General Permit for Discharges of Stormwater from Construction Activities (VAR10) -  
1691 Registration Statement, DCR 199-146 (03/09).

1692 VSMP General Permit Notice of Termination - Construction Activity Stormwater Discharges  
1693 (VAR10), DCR 199-147 (03/09).

1694 VSMP General Permit for Discharges of Stormwater from Construction Activities (VAR10) -  
1695 Transfer Agreement, DCR199-191 (03/09).

1696 VSMP General Permit Registration Statement for Stormwater Discharges From Small  
1697 Municipal Separate Storm Sewer Systems (VAR04), DCR 199-148 (07/08).

1698 DOCUMENTS INCORPORATED BY REFERENCE (4VAC50-60)

1699 Illicit Discharge Detection and Elimination – A Guidance Manual for Program Development  
1700 and Technical Assessments, EPA Cooperative Agreement X82907801-0, October 2004, by  
1701 Center for Watershed Protection and Robert Pitt, University of Alabama, available on the  
1702 Internet at <http://cfpub.epa.gov/npdes/stormwater/idde.cfm>.

1703 Getting in Step – A Guide for Conducting Watershed Outreach Campaigns, EPA-841-B-03-  
1704 002, December 2003, U.S. Environmental Protection Agency, Office of Wetlands, Oceans, and  
1705 Watersheds, available on the Internet at  
1706 <http://www.epa.gov/owow/watershed/outreach/documents/getnstep.pdf>, or may be ordered from  
1707 National Service Center for Environmental Publications, telephone 1-800-490-9198.

1708 Municipal Stormwater Program Evaluation Guidance, EPA-833-R-07-003, January 2007  
1709 (field test version), U.S. Environmental Protection Agency, Office of Wastewater Management,  
1710 available on the Internet at  
1711 [http://cfpub.epa.gov/npdes/docs.cfm?program\\_id=6&view=allprog&sort=name#ms4\\_guidance](http://cfpub.epa.gov/npdes/docs.cfm?program_id=6&view=allprog&sort=name#ms4_guidance),  
1712 or may be ordered from National Technical Information Service, 5285 Port Royal Road,  
1713 Springfield, VA 22161, telephone 1-800-553-6847 or (703) 605-6000.

1714 [Virginia Runoff Reduction Method: Instructions & Documentation, March 28, 2011.](#)